

**SECRET**

*U-P*  
*need this but*  
*hold until after*  
*we see Jan. 1*  
Draft 15 December 1953

**OGC HAS REVIEWED.**

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Memorandum for: The Director of Central Intelligence

Subject: Security implications which would arise from the publication of Executive Session testimony in the Davies case.

1. The following alternatives are presently possible in the Davies case:

- a. That the Department of Justice, having completed its review, will find that they can take no legal action for perjury;
- b. That the Department of Justice may present the case to the Grand Jury, which will either
  - i. indict, or
  - ii. not indict;
- c. That if an indictment is forthcoming, the case will proceed to trial resulting either in

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- i. conviction,
- ii. acquittal, or
- iii. a hung jury or mistrial with probable resultant retrial.

2. Current State Department action in the case under Executive Order 10450 can result in *a determination*;

a. ~~A determination~~ <sup>T</sup> that the facts do not warrant submission of the case to <sup>a Security</sup> ~~the~~ Board and that Davies is cleared;

b. That the facts do warrant presentation of the case to a Security Board, which <sup>may</sup> ~~will~~ in turn result in

- i. clearance, or
- ii. dismissal from Government service;
- c. That the Department of State does not believe that Davies has exercised the judgment warranted by a senior Foreign Service Officer and that he should be retired.

3. It would <sup>be</sup> ~~appear~~ preferable, in upholding the American judicial traditions, if no steps were to be taken by the Committee to <sup>prejudice</sup> ~~jeopardize~~ the normal, orderly judicial proceedings of the Department of ~~State~~ Justice or the quasi-judicial proceedings in the Department of State under Executive Order 10450, until the actions <sup>in process in</sup> ~~contemplated by~~ these two Departments have been completed.

4. If the Internal Security Subcommittee concurs in the statements in paragraph 3, it could result in their withholding publication, unless the Department of Justice finds there are no grounds for Grand Jury proceedings or a Grand Jury fails to indict Davies, and <sup>for</sup> the State Department clears Davies under Executive Order 10450 proceedings.

5. It was always the understanding at CIA, when we undertook to authorize our employees to testify fully before the McCarran Subcommittee, that these were to be Top Secret hearings in

Executive Session for the information of the Committee only.

There was no indication <sup>to CIA</sup> that these hearings would be published,

in my dealings with the Committee. Moreover, it is of interest

to note, upon a careful re-reading of over <sup>two thirds</sup> ~~half~~ of the testimony

in this case that, while Chairman McCarran told <sup>some</sup> non-CIA witnesses

that the hearings were to be classified as Top Secret unless the

Committee were to release them at a later date, the same state-

ment was ~~not~~ made to the CIA witnesses. Thus, in his opening

statement on 13 January 1953, with Senators Ferguson and Smith

present, together with Messrs. Sourwine, Morris and Connors of

the Committee staff, Chairman McCarran stated (Page 4), "I

think it might well be stated that the record made here today and

during this hearing will be Top Secret classified, and announce-

ment to that effect will probably be made of record on the Floor

of the Senate. If circumstances ever make it necessary to effect

declassification, the Committee can effect that." However, on Mr. Pforzheimer's first appearance (page 87), the Chairman merely noted that the proceedings were in Executive Session, "and all proceedings and the records are of Top Secret classification", with no mention of possible publication. When George Kennan appeared (page 160), the Chairman noted the Executive Top Secret aspect of the hearing, and stated "there is to be no disclosure of any statement made unless the Committee at some time sees fit to release it." A similar statement was made to [redacted] (page 306). A similar statement was made by 25X1A Senator Smith (now deceased) when [redacted] a former 25X1A CIA employee, testified (page 346). However, when [redacted] 25X1A [redacted] a former OPC employee assigned to security duties, ~~had~~ testified on 15 January, Counsel Sourwine merely noted (page 387) that the Committee had classified the hearings and record

as Top Secret. A similar statement was made by Sourwine

to [ ] In a colloquy with [ ]

(page 442), when [ ] demurred at including certain names,

Mr. Sourwine again noted that the hearing and record was

classified Top Secret (see also pages 444-446<sup>2</sup>, where the

Chairman finally stated "we are in Executive Session and this

is a Top Secret proceeding, and these records are incloistered,

and that is ~~a~~ all we can tell you." Similarly, when Mr. Wisner

testified (page 484), Mr. Sourwine noted that the hearing was

Top Secret. Mr. Sourwin<sup>2</sup> informed Kenneth Krentz, formerly

of the State Department Policy Planning Staff and then assigned

to the Embassy in London, that the hearing and record and

was  
"entire matter"/~~were~~ being treated as Top Secret. Chairman

repeated  
McCarran again/~~replied~~ to Mr. Pforzheimer (page 674) that the

record and all proceedings were Top Secret, without indicating any possibility of publication.

6. From the standpoint of security, perhaps the most *arising from unrestricted publication,* important breach would be the inclusion of the name of [ ]

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[ ] as a CIA employee *as it* ~~which~~ appears in several places in

the testimony. In addition, a review of [ ] know-

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ledge of the case, as contained in his memorandum dated 10

December 1953 on the subject of his interview with Mr. Fink

of the Department of Justice, would indicate that [ ]

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~~was~~ would be a material witness in any proceedings arising out

of the Davies case, as his recollection and interpretation would

appear to be somewhat at variance with that of [ ]

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9. The record refers many times to NSC Directive 10/2 and the relationships of the State Department with OPC in its implementation. In addition, there are many references to the planning of

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methods to be used in achieving the end result.

10. The record contains several names of CIA employees which should ~~be~~ not be revealed as it may serve to make it impossible to send them abroad in a covert capacity.

11. Over and above these arguments, there remains the ever present thought that if CIA can be hauled up to testify before these Congressional Committees, and that such testimony, even

though given in Top Secret ~~SECRET~~ Executive Session, would be subject to unlimited publication, or even edited publication, <sup>it</sup><sub>1</sub> cannot fail to increase the suspicions on this account which have been pointed out to the Director by the heads of foreign intelligence organizations. The entire principle of operating a secret intelligence organization is involved in this point.